IN THE HIGH COURT OF UTTRANCHAL AT NAINITAL

Writ Petition No. 1131 (M/S) of 2006

Govind Singh Bisht S/o Sri Mohar Singh Bisht
R/o 12, Rishilok Colony, Rishikesh,
District- Dehradun.

.....Petitioner.

Vs.

1. Motor Accident Claim Tribunal/ Addl District Judge/ F.T.C. Kashipur District Udham Singh Nagar.
2. Smt. Shashi Devi W/o late Bhola Singh.
3. Km. Anali@ Anju (minor) S/o late Bhola Singh.
4. Deepak Kumar (minor) S/o late Bhola Singh.
5. Kamal Kumar (minor) S/o late Bhola Singh.
6. Km Renu (minor) D/o Late Bhola Singh.
   All minors through their mother and natural Guardian Smt. Shashi Devi.
7. Mahesh Singh S/o Late Kanhaiya Lal
8. Rajendra Singh(minor) S/o Late Kanhaiya Lal
   Through Bhabhi and guardian Smt. Shashi Devi.
   All residents Nagarpanchayat Mahuadabra, P.S. Jaspur, District- Udham Singh Nagar.
9. Tribhuvan Yadav S/o Sri Mitai Yadav.
   R/o Kodia, P.S Sadar, Azamgarh at Present Truck Union Haridwar Road, Rishikesh, District- Dehradun.
10. The Oriental Insurance Co. Ltd. Branch Rishikesh
    Through its Branch Manager. .....Respondents

Sri Dharamveer Sharma learned Senior advocate assisted
By Sri Mohd. Azim learned counsel for the petitioner.
Sri R.C. Arya learned Standing counsel for the respondent No.1
Sri Deepak Rawat learned counsel for the respondent No.10.

Dated: 6-9-2006

Hon'ble B.S. Verma, J.

Heard Sri Dharamveer Sharma learned senior advocate assisted by Sri Mohd. Azim learned counsel for the petitioner and Sri Deepak Rawat learned counsel for the respondent No.10.

By the present writ petition the petitioner has prayed for issue of a writ, order or direction in the nature of certiorari to quash the impugned orders dated 3-7-2006 and 2-8-2006 passed by the MACT/Additional District Judge/F.T.C. Kashipur in MACP No. 178 of 2005 Shashi Devi and others Vs. Govind Singh Bisht and others.

The present writ petition has been filed on the ground that the petitioner/owner had moved the application on 2-8-2006 with the averment that the driver was out of station so that he could not file the driving license on the date fixed and he made a prayer to adduce the evidence and sought adjournment but the learned Motor Accident Claims Tribunal has rejected the said application.

Sri Deepak Rawat learned counsel for the Insurance Company made a prayer for filing the counter affidavit within a week but in this case no counter affidavit is required.

The compensation has to be paid by the Insurance Company or by the owner of the vehicle. Insurance Company did not oppose the application of the petitioner before the learned Tribunal. Learned Motor Accident Claims Tribunal ought to have been allowed the application for adducing the evidence in interest of Justice.

In interest of Justice, the order of the learned MACT be liable to be quashed. The writ petition is allowed and the orders dated 3-7-2006 and 2-8-2008 are hereby set aside. The MACT concerned is directed permit the petitioner to adduce the evidence and after hearing both the parties, the claim petition shall be decided expeditiously as far as possible.

With the aforesaid observation, the writ petition is allowed. Impugned orders dated 3-7-2006 and 2-8-2006 are hereby quashed. No order as to costs.

(B.S. Verma,J)

Dated: 6-9-2006
M.K.